

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Revocation of the Mortgage  
3 Broker License of:

4 **PLATINUM MORTGAGE ADVISORS, LTD.**  
5 **DBA PREMIER MORTGAGE ADVISORS**  
6 **AND VIVIAN DAO, PRESIDENT**  
18206 N. 19th Avenue, #1A  
Phoenix, AZ 85023

No. 10F-BD028-BNK

**NOTICE OF HEARING TO REVOKE  
AND COMPLAINT**

Respondents.

7 PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-137,  
8 6-138, and 41-1092.02, the above-captioned matter will be heard through the Office of  
9 Administrative Hearings, an independent agency, and is scheduled for June 8, 2010, at 8:00 a.m., at  
10 the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602)  
11 542-9826 (the "Hearing").

12 The purpose of the Hearing is to determine whether grounds exist to suspend or revoke  
13 Respondents' mortgage broker license; to order any other remedy necessary or proper for the  
14 enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S.  
15 §§ 6-123 and 6-131; and to impose a civil money penalty pursuant to A.R.S. § 6-132.

16 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of  
17 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied  
18 or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to  
19 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the  
20 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office  
21 of Administrative Hearings has designated Lewis D. Kowal, at the address and phone number listed  
22 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative  
23 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the  
24 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final  
25 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law  
26 Judge is specifically prohibited from entering.

1 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**  
2 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue  
3 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of  
4 Administrative Hearings.

5 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by  
6 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable  
7 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence  
8 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative  
9 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.  
10 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

11 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be  
12 made by a court reporter or by electronic means. Any party that requests a transcript of the  
13 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

14 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant  
15 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

#### 16 **NOTICE OF APPLICABLE RULES**

17 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")  
18 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting  
19 forth the rules of practice and procedure applicable in contested cases and appealable agency actions  
20 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules  
21 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through  
22 R2-19-122. A copy of these rules is enclosed.

23 Pursuant to A.A.C. R20-4-1209, Respondents shall file a written answer **within twenty (20)**  
24 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondents'  
25 position or defense and shall specifically admit or deny each of the assertions contained in this  
26 Notice of Hearing. If the answering Respondents are without or are unable to reasonably obtain

1 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondents shall  
2 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.  
3 When Respondents intend to deny only a part or a qualification of an assertion, or to qualify an  
4 assertion, Respondents shall expressly admit so much of it as is true and shall deny the remainder.  
5 Any defense not raised in the answer is deemed waived.

6 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondents will be**  
7 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as  
8 true and admitted and the Superintendent may take whatever action is appropriate, including  
9 suspension, revocation, denial of Respondents' license or affirming an order to Cease and Desist and  
10 imposition of a civil penalty or restitution to any injured party.

11 Respondents' answer shall be mailed or delivered to the Arizona Department of Financial  
12 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or  
13 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,  
14 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy  
15 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

16 **Persons with disabilities may request reasonable accommodations such as interpreters,**  
17 **alternative format or assistance with physical accessibility.** Requests for accommodations must  
18 be made as early as possible to allow time to arrange the accommodations. If accommodations are  
19 required, call the Office of Administrative Hearings at (602) 542-9826.

## 20 COMPLAINT

21 1. Respondent Platinum Mortgage Advisors, Ltd. ("Platinum") is an Arizona corporation,  
22 doing business as Premier Mortgage Advisors, an Arizona Trade Name, and is authorized to transact  
23 business in Arizona as a mortgage broker, license number MB 0904351, within the meaning of  
24 A.R.S. § 6-901, *et seq.* The nature of Platinum's business is that of making, negotiating, or offering  
25 to make or negotiate a loans secured by Arizona real property within the meaning of A.R.S.  
26 § 6-901(6).

1           2. Respondent Vivian Dao ("Ms. Dao") is the President, one hundred percent (100%)  
2 Owner and Responsible Individual of Platinum. Ms. Dao is authorized to transact business in  
3 Arizona as a mortgage broker within the meaning of A.R.S. § 6-903(E).

4           3. An August 18, 2008 through August 22, 2008 examination of Platinum, conducted by the  
5 Department, revealed that Platinum and Ms. Dao:

6           a. Failed to conduct the minimum elements of reasonable employee investigations  
7 before hiring employees, specifically:

- 8           i. Failed to maintain an employee file or the required documentation for at least  
9 twenty (20) employees;
- 10          ii. Failed to maintain a record of the hire date for at least twenty (20) employees;
- 11          iii. Failed to collect and review all of the documents authorized by the  
12 Immigration and Control Act of 1986 before hiring at least twenty (20)  
13 employees;
- 14          iv. Failed to obtain a completed and signed "Form I9" (Employment Eligibility  
15 Verification Form) before hiring at least twenty (20) employees;
- 16          v. Failed to obtain a completed and signed employment application ("EA")  
17 before hiring at least twenty (20) employees;
- 18          vi. Failed to obtain a signed statement ("SS") attesting to all of an applicant's  
19 felony convictions, including detailed information regarding each conviction,  
20 before hiring at least twenty (20) employees;
- 21          vii. Failed to consult with the applicant's most recent or next most recent  
22 employer ("EI") before hiring at least twenty (20) employees;
- 23          viii. Failed to inquire regarding an applicant's qualifications and competence for  
24 the position ("QI") before hiring at least twenty (20) employees;
- 25          ix. Failed to obtain a credit report ("CR") from a credit reporting agency before  
26 hiring at least twenty (20) employees; and

- 1           x. Failed to investigate further after at least one employee's credit report  
2           contained derogatory information before hiring at least twenty (20)  
3           employees;
- 4       b. Contracted with or paid compensation to at least ten (10) unlicensed, independent  
5       contractors; specifically, Respondents paid:
- 6           i. AZ Business & Tax Service, Paige D., Loan Rep., at least one thousand eight  
7           hundred eighty dollars (\$1,880.00) during Tax Year 2007;
- 8           ii. Cherrie H., Loan Rep., at least eight hundred sixty nine dollars and twelve  
9           cents (\$869.12) during Tax Year 2007, and at least seventeen thousand six  
10          hundred ninety five dollars and eighty one cents (\$17,695.81) during Tax  
11          Year 2006;
- 12          iii. Kelly C., Loan Rep., at least four thousand nine hundred eighty dollars and  
13          forty four cents (\$4,980.44) during Tax Year 2007;
- 14          iv. Got Docs, Sheryl S., Loan Rep., at least twenty three thousand five hundred  
15          twelve dollars (\$23,512.00) during Tax Year 2007;
- 16          v. Gregor Holdings LLC, Greg B., Loan Rep, at least thirty four thousand six  
17          hundred forty seven dollars (\$34,647.00) during Tax Year 2007, and at least  
18          ten thousand three hundred ninety five dollars and ninety three cents  
19          (\$10,395.93) during Tax Year 2006;
- 20          vi. Sandra G., Loan Rep., at least nine thousand one hundred thirty seven dollars  
21          and forty nine cents (\$9,137.49) during Tax Year 2007;
- 22          vii. Shana Del Grosso, Inc., Shana D., Loan Rep., at least seven thousand one  
23          hundred twenty four dollars (\$7,124.00) during Tax Year 2007;
- 24          viii. Victor Enterprises, Suneel V., Loan Rep., at least three thousand three  
25          hundred forty one dollars and eighty nine cents (\$3,341.89) during Tax Year  
26          2007;

- ix. Heiens Research, Inc., Michelle H., Loan Rep., at least twenty eight thousand six hundred seven dollars and ninety two cents (\$28,607.92) during Tax Year 2006; and
  - x. Housing Mortgage Consultants, Liz M., Loan Rep., at least twenty four thousand two hundred sixty five dollars and sixty five cents (\$24,265.65) during Tax Year 2006;
- c. Failed to maintain all required information on their list of all executed loan applications or executed fee agreements; specifically:
- i. Respondents' Loan Log was incomplete; specifically:
    1. Application Dates were missing;
    2. Amounts of Initial Loan Requests were missing;
    3. Final Disposition Dates were missing;
    4. Dispositions were missing; and
    5. Names of Loan Officers were missing;
- d. Failed to maintain correct and complete records of originals or copies of loan transactions; specifically:
- i. Failed to maintain the real estate purchase contract agreement in their mortgage loan files for eight (8) mortgage loan transactions;
- e. Failed to comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts; specifically:
- i. A Yield Spread Premium ("YSP") of two thousand nine hundred twenty five dollars and seven cents (\$2,925.07) was not disclosed on the Good Faith Estimate ("GFE"), but listed on the final HUD and collected from the borrower; and the Truth In Lending Statement ("TIL") was incomplete, as

- revealed in the mortgage loan file for the property located at 3802 W. Becker Lane, borrower Denise C;
- ii. A YSP of three thousand sixty six dollars and twenty five cents (\$3,066.25) and a Broker Fee of three hundred dollars (\$300.00) were not disclosed on the GFE, but listed on the final HUD and collected from the borrower, as revealed in the mortgage loan file for the property located at 710 W. Tamarisk, borrower Anthony G.;
- iii. A YSP of two thousand eight hundred eighty nine dollars (\$2,889.00) was not disclosed on the GFE, but listed on the final HUD and collected from the borrower, as revealed in the mortgage loan file for the property located at 4102 E. Janice Way, borrower James B.
- iv. A YSP of nine hundred dollars (\$900.00) was not disclosed on the GFE, but listed on the final HUD and collected from the borrower, as revealed in the mortgage loan file for the property located at 3420 S. 97th Drive, borrower Phuong D.
- v. The TIL was incomplete, as revealed in the mortgage loan file for the property located at 9429 E. Western Saddle Way, borrower, Eric S.
- vi. A YSP of two thousand four hundred fifty dollars (\$2,450.00), an application fee of three hundred dollars (\$300.00), and an origination fee of one thousand nine hundred sixty dollars (\$1,960.00) were not disclosed on the GFE, but listed on the final HUD and collected from the borrower; and the TIL was incomplete, as revealed in the mortgage loan file for the property located at 3424 S. 97th Drive, borrower Vinh D.;
- vii. A broker administration fee of two hundred dollars (\$200.00) and a broker fee of twenty two (\$22.00) were not disclosed on the GFE, but listed on the final HUD and collected from the borrower; and the TIL was incomplete, as

- 1 revealed in the mortgage loan file for the property located at 1920 E. Bell  
2 Road, borrower Jason A;
- 3 viii. Respondents retained a total of at least fifteen thousand twelve dollars and  
4 fifty two cents (\$15,012.52) in undisclosed fees which were collected from the  
5 borrowers listed above, in subparagraphs i through vi.
- 6 f. Allowed borrowers to sign regulated documents containing blank spaces without first  
7 obtaining written authorization from said borrowers; specifically:
- 8 i. One (1) ECOA Notice was signed in blank;  
9 ii. One (1) Notice to Applicant of Right to Receive Appraisal was signed in  
10 blank;  
11 iii. One (1) or more Disclosure Notices were signed in blank;  
12 iv. One (1) Mortgage Loan Origination Agreement was signed in blank;  
13 v. One (1) Mortgage Servicing Transfer Disclosure was signed in blank;  
14 vi. Four (4) Truth-In-Lending disclosures were signed in blank;  
15 vii. Two (2) IRS 4506-T Forms were signed in blank; and  
16 viii. One (1) IRS 4506 Form was signed in blank;
- 17 g. Misrepresented or concealed an essential or material fact in the course of the  
18 mortgage broker business; by Ms. Dao's closing of seventeen (17) mortgage loans  
19 through Platinum on eleven (11) different properties, eight (8) of which were listed as  
20 owner occupied residences, and failing to disclose to the lender, on the uniform  
21 residential loan applications ("Form 1003") the existence of the other  
22 properties/loans; specifically:
- 23 i. **Loan One** was funded by Countrywide Home Loans, Inc. on March 22, 2005.  
24 The property is located at 7970 E. Wingspan Way, Scottsdale, AZ 85255. The  
25 loan was an owner occupied refinance including a first mortgage totaling  
26 seven hundred twelve thousand five hundred dollars (\$712,500.00);



1. The Loan One mortgage file lists 7970 E. Wingspan Way, Scottsdale AZ as the owner occupied place of residence, and states an income of fourteen thousand dollars (\$14,000.00) per month; and
  2. Loan One was refinanced on November 6, 2006, by Loan Ten;
- ii. **Loan Two** was funded by WMC Mortgage Corporation on June 1, 2005. The property is located at 9249 E. Western Saddle Way, Scottsdale, AZ 85255. The loan was an owner occupied purchase including a first and second mortgage totaling six hundred fifteen thousand eighty nine dollars (\$615,089.00);
1. The Loan Two mortgage file lists 6885 E. Cochise Road, Scottsdale AZ as the owner occupied place of residence, and states an income of seventeen thousand seventy eight dollars (\$17,078.00) per month;
  2. Loan Two contained a Fannie Mae loan application (form 1003), dated May 3, 2005, which failed to disclose the ownership of the owner occupied refinance from Loan One on the schedule of real estate owned. The property from Loan One was closed in the borrower's name on March 22, 2005. The failure to disclose Loan One concealed a mortgage obligation of seven hundred twelve thousand five hundred dollars (\$712,500.00) from the lender.
  3. Loan Two was refinanced on October 31, 2005 by Loan Five;
- iii. **Loan Three** was funded by Paragon Home Lending, LLC ISAOA on June 20, 2005. The property is located at 9298 E. Horseshoe Bend Dr., Scottsdale, AZ 85255. The loan was an owner occupied purchase including a first and second mortgage totaling six hundred fifty thousand dollars (\$650,000.00).
1. The Loan Three mortgage file lists 6885 E. Cochise Road, Scottsdale AZ as the owner occupied place of residence, and states an income of

1                   fourteen thousand one hundred seventy two dollars (\$14,172.00) per  
2                   month.

3                   2. Loan Three contained a Fannie Mae loan application (form 1003), dated  
4                   June 2, 2005, which failed to disclose the ownership of the owner  
5                   occupied refinance from Loan One and the owner occupied purchase  
6                   from Loan Two on the schedule of real estate owned. The property from  
7                   Loan One was closed in the borrower's name on March 22, 2005. The  
8                   failure to disclose Loan One concealed a mortgage obligation of seven  
9                   hundred twelve thousand five hundred dollars (\$712,500.00) from the  
10                  lender. The property from Loan Two was closed in the borrower's name  
11                  on June 1, 2005. The failure to disclose Loan Two concealed a mortgage  
12                  obligation of \$615,089.00 from the lender.

13                  3. Loan Three was refinanced on November 7, 2005 by Loan Six;

14                  iv. **Loan Four** was funded by Accubanc Mortgage on June 28, 2005. The  
15                  property is located at 3420 South 97th Drive, Tolleson, AZ 85353. The loan  
16                  was an owner occupied purchase including a first and second mortgage  
17                  totaling three hundred three thousand dollars (\$303,000.00).

18                  1. The Loan Four mortgage file lists 6885 E. Cochise Road, Scottsdale AZ  
19                  as the owner occupied place of residence, and states an income of  
20                  fourteen thousand two hundred fifty seven dollars (\$14,257.00) per  
21                  month.

22                  2. Loan Four contained a Fannie Mae loan application (form 1003), dated  
23                  June 24, 2005, which failed to disclose the ownership of the owner  
24                  occupied refinance from Loan One, the owner occupied purchase from  
25                  Loan Two and the owner occupied purchase of Loan Three on the  
26                  schedule of real estate owned. The property from Loan One was closed

1 in the borrower's name on March 22, 2005. The failure to disclose Loan  
2 One concealed a mortgage obligation of seven hundred twelve thousand  
3 five hundred dollars (\$712,500.00) from the lender. The property from  
4 Loan Two was closed in the borrower's name on June 1, 2005. The  
5 failure to disclose Loan Two concealed a mortgage obligation of sixn  
6 hundred fifteen thousand eighty nine dollars (\$615,089.00) from the  
7 lender. The property from Loan Three was closed in the borrower's name  
8 on June 20, 2005. The failure to disclose Loan Three concealed a  
9 mortgage obligation of six hundred fifty thousand dollars (\$650,000.00)  
10 from the lender.

11 3. The Loan Four property was sold on a short sale on March 25, 2008, for  
12 one hundred ninety thousand dollars (\$190,000.00). The original loan  
13 was for three hundred three thousand dollars (\$303,000.00) therefore a  
14 minimum loss of one hundred thirteen dollars (\$113,000.00);

15 v. **Loan Five** was funded by IndyMac Bank, FSB on October 31, 2005. The  
16 property is located at 9249 E. Western Saddle Way, Scottsdale, AZ 85255.  
17 The loan was an owner occupied refinance including a first mortgage totaling  
18 six hundred twenty thousand dollars (\$620,000.00).

19 1. The Loan Five mortgage file lists 9249 E. Western Saddle Way,  
20 Scottsdale AZ as the owner occupied place of residence, and states an  
21 income of sixteen thousand seven hundred thirty thousand dollars  
22 (\$16,730.00) per month;

23 2. Loan Five contained a Fannie Mae loan application (form 1003), dated  
24 October 26, 2005, which failed to disclose the ownership of the owner  
25 occupied refinance from Loan One, the owner occupied purchase from  
26 Loan Three and the owner occupied purchase of Loan Four on the

1 schedule of real estate owned. The property from Loan One was closed  
2 in the borrower's name on March 22, 2005. The failure to disclose loan  
3 one concealed a mortgage obligation of seven hundred twelve thousand  
4 five hundred dollars (\$712,500.00) from the lender. The property from  
5 Loan Three was closed in the borrower's name on June 20, 2005. The  
6 failure to disclose Loan Three concealed a mortgage obligation of six  
7 hundred fifty thousand dollars (\$650,000.00) from the lender. The  
8 property from Loan Four was closed in the borrower's name on June 28,  
9 2005. The failure to disclose loan four concealed a mortgage obligation  
10 of three hundred three thousand dollars (\$303,000.00) from the lender.

11 3. The Loan Five property was sold to another borrower on October 18,  
12 2007.

13 vi. **Loan Six** was funded by Paragon Home Lending, LLC ISAOA on  
14 November 7, 2005. The property is located at 9298 E. Horseshoe Bend Dr.,  
15 Scottsdale, AZ 85255. The loan is an owner occupied refinance including a  
16 first mortgage totaling six hundred fifty nine thousand dollars (\$659,000.00).

- 17 1. The Loan Six mortgage file lists 9298 E. Horseshoe Bend Dr., Scottsdale  
18 AZ as the owner occupied place of residence, and states an income of  
19 nineteen thousand two hundred nine dollars (\$19,209.00) per month.
- 20 2. Loan Six contained a Fannie Mae loan application (form 1003), dated  
21 November 2, 2005, which failed to disclose the ownership of the owner  
22 occupied refinance from Loan Five on the schedule of real estate owned.  
23 The property from Loan Five was closed in the borrower's name on  
24 October 31, 2005. The failure to disclose Loan Five concealed a  
25 mortgage obligation of six hundred twenty thousand dollars  
26 (\$620,000.00) from the lender. .

1                   3. The Loan Six property was foreclosed through a trustee sale on  
2                   October 30, 2008.

3           vii. **Loan Seven** was funded by WMC Mortgage on December 29, 2005. The  
4           property is located at 8426 W. Miami Street, Tolleson, AZ 85353. The loan is  
5           an investment purchase including a first mortgage totaling three hundred thirty  
6           seven thousand two hundred fifty dollars (\$337,250.00).

7                   1. The Loan Seven mortgage file lists 7970 E. Wingspan Way, Scottsdale,  
8                   AZ as the owner occupied place of residence, and states an income of  
9                   nineteen thousand nine hundred ninety two dollars (\$19,992.00) per  
10                  month.

11                  2. Loan Seven contained a Fannie Mae loan application (form 1003), dated  
12                  November 16, 2005, which failed to disclose the ownership of the owner  
13                  occupied refinance from Loan Five and the owner occupied refinance of  
14                  Loan Six on the schedule of real estate owned. The property from Loan  
15                  Five was closed in the borrower's name on October 31, 2005. The failure  
16                  to disclose Loan Six concealed a mortgage obligation of six hundred  
17                  twenty thousand dollars (\$620,000.00) from the lender. The property  
18                  from Loan Six was closed in the borrower's name on November 7, 2005.  
19                  The failure to disclose Loan Six concealed a mortgage obligation of six  
20                  hundred fifty nine thousand dollars (\$659,000.00) from the lender.

21                  3. On November 26, 2007, the Loan Seven property was sold on a short sale  
22                  for two hundred twenty five thousand dollars (\$225,000.00); the original  
23                  loan was for three hundred thirty seven two hundred fifty dollars  
24                  (\$337,250.00); and therefore a minimum loss of one hundred twelve  
25                  thousand two hundred fifty dollars (\$112,250.00).

26   ...

viii. **Loan Eight** was funded by Transnational Financial Network on January 1, 2006. The property is located at 9331 W. Heber Road, Tolleson, AZ 85353. The loan was an investment purchase including a first and second mortgage totaling two hundred ninety five thousand seven hundred dollars (\$295,700.00).

1. The Loan Eight mortgage file lists 7970 E. Wingspan Way, Scottsdale, AZ as the owner occupied place of residence, and states an income of seventeen thousand nine hundred sixty nine dollars (\$17,969.00) per month;

2. On June 20, 2008, the Loan Eight property was foreclosed through a trustee sale.

ix. **Loan Nine** was funded by Taylor, Bean & Whitaker Mortgage Corporation on March 10, 2006. The property is located at 9206 W. Heber Road, Tolleson, AZ 85353. The loan was an investment purchase including a first and second mortgage totaling two hundred eighty seven thousand three hundred fifty dollars (\$287,350.00).

1. The Loan Nine mortgage file lists 7970 E. Wingspan Way, Scottsdale, AZ as the owner occupied place of residence, and states an the income of twenty one thousand one hundred sixty thousand dollars (\$21,160.00) per month.

2. Loan Nine contained a Fannie Mae loan application (form 1003), dated March 9, 2006, which failed to disclose the ownership of the owner occupied refinance from Loan Six, the investment purchase from Loan Seven and the investment purchase from Loan Eight on the schedule of real estate owned. The property from Loan Six was closed in the borrower's name on November 7, 2005. The failure to disclose Loan Six

concealed a mortgage obligation of six hundred fifty nine thousand dollars (\$659,000.00) from the lender. The property from Loan Seven was closed in the borrower's name on December 29, 2005. The failure to disclose Loan Seven concealed a mortgage obligation of three hundred thirty seven thousand two hundred fifty thousand dollars (\$337,250.00) from the lender. The property from Loan Eight was closed in the borrower's name on January 1, 2006. The failure to disclose Loan Eight concealed a mortgage obligation of two hundred ninety five thousand seven hundred dollars (\$295,700.00) from the lender.

3. On September 8, 2008, the Loan Nine property was foreclosed through a trustee sale.

x. **Loan Ten** was funded by Homecomings Financial, LLC on November 6, 2006. The property is located at 7970 E. Wingspan Way, Scottsdale, AZ 85255. The loan was an owner occupied refinance including a first mortgage totaling nine hundred eighteen thousand seven hundred fifty dollars (\$918,750.00).

1. The Loan Ten mortgage file lists 7970 E. Wingspan Way, Scottsdale, AZ as the owner occupied place of residence, and states an income of nineteen thousand forty two dollars (\$19,042.00) per month.

2. A notice of trustee sale was issued for the Loan Ten property on October 2, 2008 and February 2, 2009; however, no sale took place, as the borrower still owns the property.

xi. **Loan Eleven** was funded by Countrywide Home Loans on February 1, 2007. The property is located at 1513 W. Calle Escuada, Phoenix, AZ 85085. The loan was an owner occupied refinance including a first and second mortgage totaling five hundred ninety seven thousand eight hundred dollars

1 (\$597,800.00).

2 1. The Loan Eleven mortgage file lists 9249 E. Western Saddle Way,  
3 Scottsdale, AZ as the owner occupied place of residence, and states an  
4 income of thirty one thousand two hundred seventy five dollars  
5 (\$31,275.00) per month.

6 2. Loan Eleven contained a Fannie Mae loan application (form 1003), dated  
7 January 31, 2007, which failed to disclose the ownership of the owner  
8 occupied refinance from Loan Ten on the schedule of real estate owned.  
9 The property from Loan Ten was closed in the borrower's name on  
10 November 6, 2006. The failure to disclose Loan Ten concealed a  
11 mortgage obligation of nine hundred eighteen thousand seven hundred  
12 fifty dollars (\$918,750.00) from the lender.

13 3. On June 29, 2007, the Loan Eleven property was sold to another  
14 borrower.

15 xii. In order for a lender to make a prudent underwriting decision they must know  
16 all liabilities and potential liabilities of the borrower, which also affects the  
17 amount of money available to close the loans and the required reserves after  
18 the loans close. Within the eleven loans set forth above, Ms. Dao's (the  
19 borrower's) clear intent was to purchase an additional homes, of which  
20 Respondent had full knowledge of and helped conceal from the respective  
21 lenders. The manipulation of the borrower's residence allowed for more  
22 favorable terms as an owner occupant.

23 h. Failed to ensure that the Responsible Individual (Ms. Dao) maintained a position of  
24 active management; specifically:

25 i. Compensation was paid by Respondents to at least ten (10) unlicensed,  
26 independent contractors; and



- ii. The Responsible Individual personally originated and closed thirteen (13) loans that contained misrepresentations and/or concealed material facts;
  - i. Used an appraisal disclosure that places an unlawful 90-day limit on the amount of time in which a borrower may obtain a copy of an appraisal for which the borrower has paid; specifically:
    - i. Respondents have used a disclosure entitled "NOTICE OF RIGHT TO RECEIVE AN APPRAISAL REPORT" that includes a 90-day limit on the amount of time an applicant may request the appraisal, for at least six (6) mortgage loan transactions,
4. These Findings of Fact shall also serve as Conclusions of Law.

**LAW**

1. Pursuant to A.R.S. §§ 6-901, *et seq.*, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage broker business and with the enforcement of statutes, rules, and regulations relating to mortgage brokers.

2. By the conduct set forth in the Findings of Fact, Platinum and Ms. Dao violated the following:

- a. A.R.S. § 6-903(Q) and A.A.C. R20-4-102 by failing to conduct the minimum elements of reasonable employee investigations before hiring employees;
- b. A.R.S. § 6-909(B) and A.A.C. R20-4-102 by contracting with or paying compensation to unlicensed, independent contractors;
- c. A.A.C. R20-4-917(B)(1) by failing to maintain all required information on their list of all executed loan applications or executed fee agreements;
- d. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B)(6) by failing to maintain correct and complete records of originals or copies of loan transactions;
- e. A.R.S. § 6-906(D) and A.A.C. R20-4-917(B)(6)(e) by failing to comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C.

1            §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C.  
2            §§ 2601 through 2617), and the regulations promulgated under these acts;

3            f. A.R.S. § 6-909(A) and A.A.C. R20-4-921 by allowing borrowers to sign regulated  
4            documents containing blank spaces without first obtaining written authorization from  
5            said borrowers;

6            g. A.R.S. § 6-909(L) by misrepresenting or concealing an essential or material fact in  
7            the course of the mortgage broker business;

8            h. A.R.S. § 6-903(H) and A.A.C. R20-4-102 by failing to ensure that the responsible  
9            individual maintains a position of active management; and

10           i. A.R.S. § 6-906(C) by using an appraisal disclosure that places an unlawful 90-day  
11           limit on the amount of time in which a borrower may obtain a copy of an appraisal for  
12           which the borrower has paid.

13           2. The Superintendent may suspend or revoke a mortgage broker license pursuant to Title 6,  
14 Chapter 9, Article 1 (A.R.S. § 6-901 *et seq.*), if the Superintendent finds that a licensee has violated  
15 any applicable law, rule or order, pursuant to A.R.S. § 6-905(A)(3).

16           3. Respondents have violated applicable statutes and rules, as set forth above, in the conduct  
17 of their mortgage broker business, which constitutes grounds for the suspension or revocation of  
18 Respondents' mortgage broker license, number MB 0904351, pursuant to A.R.S. § 6-905(A)(3).

19           4. The violations, set forth above, constitute grounds for the pursuit of any other remedy  
20 necessary or proper for the enforcement of statutes and rules regulating collection agencies in  
21 Arizona pursuant to A.R.S. §§ 6-123 and 6-131.

22           5. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes are  
23 grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for  
24 each day.

25           6. Pursuant to A.R.S. § 6-132, Platinum and Ms. Dao shall be assessed a civil money  
26 penalty, payable to the Department, in the amount of **forty five thousand dollars (\$45,000.00).**

1 Platinum and Ms. Dao shall be jointly and severally liable for payment of the civil money penalty.

2 7. Pursuant to A.R.S. §§ 6-131(A)(3) and 6-137, Platinum and Ms. Dao shall be ordered to  
3 immediately pay restitution in the amount of **fifteen thousand twelve dollars and fifty two cents**  
4 **(\$15,012.52)** for the undisclosed fees which were collected from the borrowers listed above, in  
5 subparagraphs 3(e)(i) through 3(e)(vi).

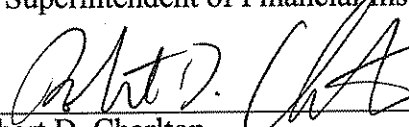
6 8. Pursuant to A.R.S. § 6-125(B)(4), Platinum and Ms. Dao shall be assessed an  
7 examination fee in the amount of **three thousand nine hundred eighty one and twenty five cents**  
8 **(\$3,981.25)**, pursuant to A.R.S. § 6-122(B)(3), plus any applicable late fees pursuant to A.R.S. § 6-  
9 125(D).

10 9. The violations, set forth above, constitute grounds for (1) the issuance of an order  
11 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and  
12 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the  
13 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and  
14 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the  
15 suspension or revocation of Respondents' license pursuant to A.R.S. § 6-905; (4) an order to pay  
16 restitution of any fees earned on loans made in violation of A.R.S. § 6-901, *et seq.*, pursuant to  
17 A.R.S. §§ 6-131(A)(3) and 6-137; and (5) an order or any other remedy necessary or proper for the  
18 enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S. §§ 6-123 and  
19 6-131.

20 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the  
21 above-described violations, the Superintendent may impose a civil money penalty pursuant to A.R.S.  
22 § 6-132; suspend or revoke Respondents' mortgage broker license pursuant to A.R.S. § 6-905; order  
23 payment of restitution of any fees earned on loans made in violation of A.R.S. §§ 6-901, *et seq.*,  
24 pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and order any other remedy necessary or proper for  
25 the enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S. §§ 6-123 and  
26 6-131.

1 DATED this 3<sup>rd</sup> day of February, 2010.

2 Thomas L. Wood  
3 Acting Superintendent of Financial Institutions

4 By   
5 Robert D. Charlton  
6 Assistant Superintendent of Financial Institutions

7 ORIGINAL of the foregoing filed this 3<sup>rd</sup>  
8 day of February, 2010, in the office of:

9 Thomas L. Wood  
10 Acting Superintendent of Financial Institutions  
11 Arizona Department of Financial Institutions  
12 Attn: Susan Longo  
13 2910 N. 44th Street, Suite 310  
14 Phoenix, AZ 85018

15 COPY of the foregoing mailed/delivered same date to:

16 Lewis D. Kowal, Administrative Law Judge  
17 Office of the Administrative Hearings  
18 1400 West Washington, Suite 101  
19 Phoenix, AZ 85007

20 COPY of the foregoing mailed/delivered same date to:

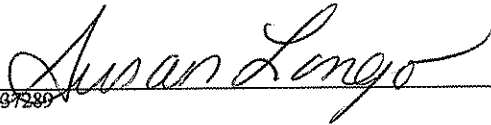
21 Craig A. Raby, Assistant Attorney General  
22 Attorney General's Office  
23 1275 West Washington  
24 Phoenix, AZ 85007

25 Robert D. Charlton, Assistant Superintendent  
26 Judith Moss, Senior Examiner  
Arizona Department of Financial Institutions  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

AND COPY MAILED SAME DATE by  
Certified Mail, Return Receipt Requested, to:

Vivian Dao, President  
Platinum Mortgage Advisors, Ltd.  
dba Premium Mortgage Advisors  
18206 N. 19th Avenue, #1A  
Phoenix, AZ 85023  
Respondents

1 Vivian Dao, Statutory Agent For:  
2 Platinum Mortgage Advisors, Ltd.  
3 dba Premium Mortgage Advisors  
18206 N. 19th Avenue, #1A  
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5 #697289

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